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Dealing with **Debt:** A Consumer's Guide



Mandate and Mission

Section 5 (2) of the *Bankruptcy and Insolvency Act* (BIA) provides the Superintendent of Bankruptcy with the **mandate** to “supervise the administration of all estates and matters to which this Act applies”.

To fulfil its legislative mandate, the Office of the Superintendent of Bankruptcy (OSB) has undertaken the mission of protecting the integrity of the bankruptcy and insolvency system in Canada.

The OSB intends to achieve this mission by concentrating its efforts on the following three key functions:

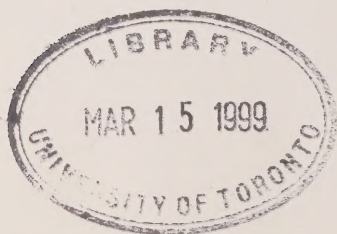
- (1) provide an effective, efficient and uniform national program that will ensure compliance with the *Bankruptcy and Insolvency Act*;
- (2) maintain a sound regulatory policy and a solid legislative base in response to changing market conditions;
- (3) encourage the active participation of private-sector stakeholders in order to ensure efficiency in estate administration.

Cette publication est disponible en français.

Our Web site address: <http://osb-bsf.ic.gc.ca>

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Introduction

Many Canadians will face a financial crisis at some time. Many debt problems are easy to solve. Others need professional assistance. The best way to deal with your financial problems is to admit them and get control before they get out of hand.

This booklet may help you decide whether or not you have a serious debt problem. It also gives some suggestions for solving your difficulties and avoiding them in the future. The information in this booklet is meant for individuals only and does not apply to corporations.

Readers are reminded that this booklet is not meant to be used for legal purposes. Its only aim is to give information to individuals who are having financial difficulties.



Recognize the danger signals

You have a debt problem, or are going to have one, if:

- you continually go over your spending limit or you use your credit cards as a necessity rather than a convenience;
- you are always borrowing money to make it from one payday to the next;
- your wages have been garnisheed to pay for outstanding debts;
- you pay only interest or service charges monthly and do not reduce your total debt over many months;
- creditors pressure you for payment, threaten to sue or repossess your car, furniture or television, or hire a collection agency to recover the money for them; or
- utility companies cut off service because your bills have gone unpaid.

Possible solutions

Contact your creditors

Explain why you can't make your payments and suggest making lower payments over a longer period of time. You may be surprised but many creditors are willing to accept such arrangements.

Credit counselling

Credit counselling services are available, but may be different from province to province. Contact a local family or community counselling office or association to find out how to get in touch with such a service. If you have difficulty making a budget and sticking to it, counselling may help you.

Debt consolidation loan

You can ask a bank or financial institution about combining or "consolidating" your debts into one loan. In such a case, the bank or financial institution will pay off all your debts and, in return, you make monthly payments to that creditor. Make sure to shop around because interest rates are different. It is important to stop buying on credit. Continuing to use credit could make your debt load too great for you to handle.

Consolidation Order

If you live in British Columbia, Alberta, Saskatchewan, Nova Scotia or Prince Edward Island you may apply for a Consolidation Order. A Consolidation Order sets out the amount and the times when payments are due to the court. The court will distribute your payments to your creditors. This part of the *Bankruptcy and Insolvency Act* (Part X: Orderly Payment of Debts) lets you pay off your debts over three years and frees you from creditor harassment and wage garnishment. Unlike bankruptcy, you do not lose your assets.

Voluntary Deposit scheme

For residents of Quebec, the Voluntary Deposit scheme (better known as the "Lacombe Law") is similar to a Consolidation Order. You must make a monthly payment based on your income and number of dependents, to the court. This service is usually available at the local courthouse.

Consumer proposal

Under the *Bankruptcy and Insolvency Act* you may make a proposal to your creditors to reduce the amount of your debts, extend the time you have to pay off the debt, or provide some combination of both. Proposals are explained in more detail on page 15.

Bankruptcy

If none of the above methods solves your debt problem, you may choose to consider bankruptcy. Bankruptcy should be a last alternative if you cannot meet your financial responsibilities through affordable payments over a specific period of time.

Bankruptcy is a legal process performed under the *Bankruptcy and Insolvency Act*. Because of your inability to pay your debts, you assign all of your assets, except those exempt by law, to a licensed trustee in bankruptcy. This process relieves you of most debts, and legal proceedings against you by creditors should stop. Bankruptcy is explained in more detail on page 19.

What you should know

Administrator of consumer proposals

An administrator of consumer proposals is a trustee in bankruptcy or a person appointed by the Superintendent of Bankruptcy to administer consumer proposals. The Provinces of British Columbia (1-800-663-7867), Saskatchewan (1-306-933-6520), Nova Scotia (1-902-424-7020) and Prince Edward Island (1-902-368-4580) provide this service. You may wish to contact the appropriate provincial department. With regard to trustees in bankruptcy, their names may usually be found in the yellow pages of your telephone book under the headings of "Bankruptcy" or "Trustees in Bankruptcy".

Assets and property

In a bankruptcy, you must assign all your assets to the trustee, except for exempt property (such as basic furniture, tools-of-trade and, under certain circumstances, the goods and services tax credit payments). Exempt property will vary from province to province. Your trustee can tell you what these are.

Bankrupt

This is the legal status of a person who declares bankruptcy.

Bankruptcy and Insolvency Act (the Act)

This is the federal law which regulates bankruptcy and proposal proceedings in Canada. It falls under the responsibility of the Office of the Superintendent of Bankruptcy at Industry Canada.

Bankruptcy Court

This is a court in which a judge or registrar will decide on the bankrupt's application for discharge and other insolvency matters. Discharges are explained in more detail on page 23.

Co-signers

Your bankruptcy does not cancel the responsibility of anyone who has guaranteed or co-signed a loan on your behalf. For example, if your parent co-signed a loan for you, that parent would be liable to pay the loan in full even if you decide to file for bankruptcy.

Creditor

A creditor is a person, institution or business to whom money is owed. Secured creditors are creditors who have taken some measure to protect themselves and hold a mortgage, pledge, lien or similar instrument on, or against, your property. If they are not paid, they can enforce their claims by recovering the assets on which they hold security.

Unsecured creditors are creditors who do not have any security for the debt owing to them.

Credit rating and re-establishment of credit

Credit bureaus, or credit reporting agencies, collect information about consumers' financial affairs and sell the information to their clients, such as credit grantors, employers, and insurance companies. These agencies obtain information from various sources, for example:

- from the consumer who provides information when filling out an application for credit or a loan;

- from public records which provide information related to such matters as bankruptcy, court judgments, and conditional sales contracts;
- from credit grantors and collection agencies who provide credit files on a monthly basis. These files contain information such as the account number, the outstanding balance, and a nine-point rating scale, for example: R1 indicating that payment was made on time; R2 that payment was made 30 days late, but not more than 60 days; and R9 indicating a bad debt or one that has been placed for collection and it also applies to bankruptcy.

It should be noted that your credit rating is set by your creditors. Credit bureaus only pass on that information to their clients.

Generally, information concerning your bankruptcy could show up on your file for a period of 6 to 7 years after your discharge. If you have been bankrupt before, this period could be extended to as much as 14 years. This period could vary from one province to another.

The decision as to whether or not to grant credit to an applicant is made by the credit grantor, not the credit bureau. It is the lender's individual credit scoring system that determines access to credit.

Should you wish to improve your credit record after obtaining your discharge from bankruptcy, you could, for instance, contact your banker and request a meeting. For this meeting, you could bring your pay cheque stubs, your budget, and your discharge papers. You could explain that you have obtained your discharge and ask the banker how you can earn your way back to a good credit record.

Debtor

A debtor is a person who receives a loan or an advance of goods and services in exchange for a promise to pay at a later date.

Income tax returns

Two income tax returns must be completed for the calendar year in which you become bankrupt. The pre-bankruptcy return covers the period from the beginning of the year to the date of your bankruptcy. You will be required to provide your trustee with details and documentation to support this return. The post-bankruptcy return covers the period from the date of bankruptcy to the end of the calendar year.

The trustee may ask you to give all, or a portion of, any possible income tax refund for distribution to your creditors.

Inspector

Inspectors are appointed by creditors to represent them before the trustee during the administration of proposals and bankruptcies. They are expected to assist the trustee by virtue of their experience and are required to supervise certain aspects of the trustee's administration.

Insolvent person

A person who is unable to meet financial obligations as they become due is insolvent.

Legal action

Although legal actions or most garnishments against you stop on the date you declare bankruptcy or file a proposal, criminal actions and some civil matters, such as actions in matrimonial matters, are not affected by the bankruptcy or proposal. Give the trustee or administrator copies of all legal documents that you have received before and after the date you became bankrupt or filed a proposal. In a proposal, no creditor can, without permission of the court, start or continue any legal action until the proposal is either withdrawn, refused, annulled or until the administrator has been discharged. In the case of a bankruptcy, no creditor may, without permission of the court, start or continue any legal action until the trustee has been discharged.

Mediation

Mediation is a way of resolving conflict between two or more individuals. In the course of a bankruptcy, the parties involved in a disagreement can agree to work with an impartial and independent person, called a “mediator”, who will help them settle their dispute instead of going to court. Generally, the mediator is an employee from one of the Superintendent of Bankruptcy’s Division Offices. Mediation is more flexible, speedier and less costly than a formal court decision. It allows people affected by the bankruptcy to be directly involved in deciding how their disagreement will be settled.

In bankruptcy, mediation is available to resolve two types of disputes:

- (i) disagreements over the amount of money the bankrupt will pay to the trustee for the benefit of the creditors during the bankruptcy (called surplus income); and
- (ii) disagreements regarding the conditions that the trustee has recommended for a bankrupt's discharge.

When mediation takes place, the bankrupt and the trustee (or trustee's representative) must be present. If a creditor requests mediation, that creditor must also be present.

For more information on mediation, you may ask your trustee to provide you with a free copy of the folder entitled "All About Bankruptcy Mediation" prepared by the Office of the Superintendent of Bankruptcy or you may consult the Superintendent's Web site at: <http://osb-bsf.ic.gc.ca>

Official Receiver

The Official Receiver is a federal government employee in the Office of the Superintendent of Bankruptcy and an officer of the court with specific duties under the *Bankruptcy and Insolvency Act*. The Official Receiver, among other things, accepts the documents that are filed in proposals and bankruptcies, examines bankrupts under oath and chairs meetings of creditors.

Payments and Surplus Income

Immediately after becoming bankrupt, you should no longer be required to make payments to your creditors. However, while you are an undischarged bankrupt, you are required to make payments to your trustee for distribution to your creditors. Remember, you have a duty to inform your trustee of any material change in your financial situation (for example: an income tax refund, a new job, or the birth of a new family member). At the beginning of the bankruptcy, the trustee determines the amount that you will be required to pay. This amount may be adjusted during the administration of your bankruptcy if there is a change in either your total income or personal or family situation. The trustee sets the amount of payment by taking into account your total income, the standards issued by the Superintendent of Bankruptcy, and your personal and family situation. The Superintendent of Bankruptcy's standards are set out in Directive #11 which is available on the OSB's Web site at: <http://osb-bsf.ic.gc.ca>

If your payments are set at \$50 or more per month (known as the "surplus income" payment) and you do not agree with the amount set by the trustee, the trustee must request mediation. Similarly, a creditor may request mediation if that creditor does not agree with the amount of the surplus income payment set by the trustee. If mediation does not resolve the disagreement, the trustee, under certain circumstances, will have to apply to court to have the matter decided.

Failure to make the required payments may affect your discharge (i.e. release from bankruptcy).

Pressure from creditors

One of the objectives of the Act is to relieve you of pressure from your creditors. If you receive phone calls or letters from creditors, tell them that you are bankrupt, or have made a proposal, and refer them to your trustee or administrator of consumer proposals.

Superintendent of Bankruptcy

The Superintendent of Bankruptcy is a federally appointed official who oversees the administration of the *Bankruptcy and Insolvency Act* in Canada.

Trustee in bankruptcy

A trustee in bankruptcy is a person licensed by the Superintendent of Bankruptcy to administer proposals and bankruptcies. The trustee represents your creditors and is an officer of the court. However, the trustee can give you information and advice about both the proposal and bankruptcy processes and make sure that your rights, as well as those of the creditors, are respected.

Windfalls

You must give all windfalls, such as lottery winnings and inheritances, occurring during the period of your bankruptcy, to the trustee for distribution to your creditors.

Where to go

If you want more information on making a consumer proposal to your creditors, contact an administrator of consumer proposals. If you wish more information on declaring bankruptcy, you should contact a trustee in bankruptcy. The names of trustees and administrators of consumer proposals in your area are usually listed in the telephone book under "Bankruptcy" or "Trustee" or provincial government services. If you cannot secure the services of a trustee, contact the nearest office of the Superintendent of Bankruptcy at Industry Canada (see Appendix II, on page 31).

Assessment and Counselling

Before you make a final decision on making a consumer proposal or on declaring bankruptcy, the administrator of consumer proposals or the trustee, as the case may be, will perform an assessment. The purposes of this assessment are to evaluate your financial situation, to provide you with an explanation of the options available to you and to discuss with you the merits and the consequences of your choice.

Should you decide to make a consumer proposal or declare bankruptcy, the *Bankruptcy and Insolvency Act* requires that counselling be provided to you. This counselling must be given by a counsellor registered with the Office of the Superintendent of Bankruptcy. Counselling consists of two stages. During the first counselling stage, you will be provided with information concerning money management, spending and shopping habits, warning signs of financial difficulties, and obtaining and using credit. In the second stage, the counsellor will help you to discover and understand the causes of your insolvency or bankruptcy and will assist you in establishing a rehabilitation plan by helping you to develop recommendations and alternatives for a financial plan of action. You must attend these two stages. Counselling may also be provided to someone who is related to you or has a financial relationship with you. If you feel that you need additional help or assistance, you may ask for a third counselling session.

Consumer proposal

What is a consumer proposal?

A consumer proposal is an offer made by a debtor to his or her creditors to modify his or her payments. For example, you may propose that you will pay a lower amount each month, but over a longer period of time. Or you may propose that your creditors accept being paid a percentage of what you owe.

How does a consumer proposal benefit you?

Your unsecured creditors will not be able to take legal steps to recover their debts from you (such as seizing property or garnisheeing wages) unless the proposal is withdrawn, rejected or annulled or until the administrator is discharged where the proposal was not fully performed (except for debts which would not be released in a bankruptcy by an order of discharge).

Who can make a consumer proposal?

Any natural person who is insolvent, including a bankrupt, whose debts are less than \$75 000, excluding a home mortgage, can make a consumer proposal. When a bankrupt wishes to make a proposal, it must first be approved by the inspectors and the bankrupt must have obtained the assistance of a trustee who will be the administrator of the consumer proposal. If the debts are more than \$75 000, the proposal will be made under Division I of Part III of the Act.

It is possible to make a joint consumer proposal. Two or more consumer proposals may be joined where they could reasonably be dealt with together because of the financial relationship of the consumer debtors involved.

It should be noted that a joint consumer proposal will be available to consumer debtors who do not have total debts exceeding \$75 000.

How does someone make a proposal? What is the process?

The procedure begins when you seek the help of an administrator who might be a trustee in bankruptcy or a person appointed by the Superintendent of Bankruptcy. He or she will ask you about your financial situation, assess it and give you advice about what kind of a proposal may be best for you and your creditors. The administrator will ask you to sign the required forms which will then be filed with the Official Receiver.

What happens after a proposal is filed with the Official Receiver?

Within 10 days after filing your proposal with the Official Receiver, the administrator is required to send the Official Receiver a report. The report contains the administrator's opinion about whether the proposal is fair and reasonable and whether he or she believes you will be able to perform it. It also contains a list of your assets and debts, and a list of your creditors.

At the same time, the administrator must send to each of your creditors a copy of your proposal and a copy of the report on the proposal. The administrator will ask the creditors to accept or reject the proposal. The administrator will also provide information about calling a meeting of creditors.

How does a proposal get accepted?

Your creditors will have up to 45 days to consider whether to accept or reject your proposal. A creditor may send a note to the administrator accepting or rejecting the proposal. If creditors do not respond, they will be considered to have accepted the proposal. If a sufficient number of creditors accept the proposal, then it will become binding on you and your creditors, and you will have to meet its terms.

What happens if the proposal is rejected?

If the proposal is rejected, you will no longer be protected by the Act. The administrator will, within 5 days, notify you, all your creditors and the Official Receiver of this fact.

Your creditors will now be able to take legal steps to recover their debts from you. If you were bankrupt when you made this proposal, the administration of your bankruptcy will continue.

What if my proposal is accepted, and I fully meet the terms?

When the proposal is fully performed, the administrator must give a certificate of full performance to you and the Official Receiver and you will be relieved of the debts that were in the proposal.

What if I stop making the payments and default on the performance of the proposal?

If you fail to keep the terms of your proposal, it may be annulled. If you were insolvent prior to making the proposal, you return to the same situation and your creditors would have a claim against you for the amount owed to them before the proposal, minus any amount you paid them during the proposal. If you were bankrupt when the proposal was made and the court subsequently annuls your proposal, you will be considered bankrupt on the date of the annulment.

Does it cost anything to make a proposal?

Yes. There is a filing fee to be paid to the Superintendent of Bankruptcy. In addition, the administrator is entitled to be paid. These fees are prescribed by the *Bankruptcy and Insolvency Rules* which may be consulted on the OSB's Web site at: <http://osb-bsf.ic.gc.ca>

Bankruptcy

What is bankruptcy and what are the benefits to the debtor?

Bankruptcy is a legal process, regulated by the Act, by which you may be discharged from most of your debts. The purpose of the Act is to permit an honest, but unfortunate, debtor to obtain a discharge from his or her debts, subject to reasonable conditions.

When you declare bankruptcy, your property is given to a trustee in bankruptcy who then sells it and distributes the money among your creditors. Your unsecured creditors will not be able to take legal steps to recover their debts from you (such as seizing property or garnisheeing wages).

It is possible to file a joint assignment. A joint assignment allows two bankrupts, involved in a close financial relationship, to file for bankruptcy and to see their files dealt with as one file. This is available to debtors if their debts are substantially the same and the trustee believes it is in the best interest of the debtors and creditors.

What are the duties of a bankrupt?

Once you are legally a bankrupt, you are required to perform the duties of bankrupts as outlined in Appendix I which begins on page 25. The trustee will inform you of these duties.

How does one become bankrupt?

First, you meet with a trustee in bankruptcy who will assess your financial situation and explain the options available to you as described earlier. If you decide to become bankrupt, the trustee will help you complete several forms which you will have to sign. You are considered a bankrupt only when the trustee files these forms with the Official Receiver.

What kind of forms will I have to sign?

You will have to sign at least two forms. One is an "Assignment", and the other is your "Statement of Affairs". In the assignment you state that you are handing over all of your property to the trustee for the benefit of your creditors. In the statement of affairs you list your assets, liabilities, income and expenses. As well you will have to answer several questions about your family, employment and disposition of assets.

Before you sign them, make sure you understand the legal documents that are part of your bankruptcy file. Although the trustee prepares them from the information you provide, they are your statements. You are responsible for the accuracy of their contents. Review them carefully before you sign. Once these documents have been filed with the Official Receiver, you are legally bankrupt and, at this point, the process cannot be reversed without a court order. Keep copies of notices and all other documents the trustee sends you.

What happens after the forms are filed with the Official Receiver and I become bankrupt?

Generally, a meeting of creditors is not necessary but there may be instances where such a meeting will be held. Creditors or the Official Receiver may request one. If a meeting of creditors is called, you must attend this meeting. You may also be required to go to the Official Receiver's office to answer several questions under oath about your financial affairs.

What happens at the first meeting of creditors?

If a meeting is called, the trustee will give a report about your assets and liabilities and creditors may ask you related questions. The creditors will then vote to either confirm the trustee's appointment, or substitute a trustee of their choice. The creditors will then have an opportunity to vote for the appointment of inspectors. They may also give directions to the trustee with reference to the administration of the estate.

What does the examination with the Official Receiver involve?

The Official Receiver may send you a notice instructing you to appear before him or her for an examination under oath. The Official Receiver will then ask you a number of questions about the causes of your bankruptcy, your conduct, the disposition of your property, and the nature of your debts.

When is a bankrupt discharged?

There will be an automatic discharge for first-time bankrupts nine months after they became bankrupt unless the trustee recommends a discharge with conditions or it is opposed by either a creditor, the trustee or the Superintendent of Bankruptcy.

The trustee is required to recommend a discharge with conditions if either of the following circumstances exists:

- the bankrupt did not pay the agreed amount of surplus income, or
- the bankrupt filed for bankruptcy instead of proposing a viable repayment plan (called a proposal).

If the bankrupt or a creditor does not agree with the trustee's recommendation, mediation may be requested as long as there is no other ground for opposition.

If mediation fails to resolve the issue or if an opposition is filed, the trustee will have to obtain a date for a court hearing. The party opposing the discharge will have to give his or her reasons to a court official who will make a decision. It should be noted that a first-time individual bankrupt who refuses or neglects to receive the required counselling sessions will not qualify for an automatic discharge.

For those who have already been bankrupt before or who do not qualify for the automatic discharge, the trustee is required within one year from the beginning of the bankruptcy to apply to the court for a hearing of the application for a discharge. The court official has several options from which to choose.

What kind of discharge orders can a judge or registrar issue?

At a hearing for a discharge the court decides whether to postpone the hearing to a later date, refuse the discharge, or issue any of the following orders:

(i) Order of Absolute Discharge

This official document relieves you of the debts incurred before you declared bankruptcy, taking under consideration the exceptions provided in the Act.

(ii) Order of Conditional Discharge

The court may impose certain conditions that must be met before your discharge becomes absolute. For example, the Court may require you to pay an amount to your trustee for distribution to your creditors.

(iii) Order of Suspended Discharge

The court orders a delay so that the discharge will not be effective until a certain date.

Your discharge may be delayed by an opposition by a creditor, the trustee or the Superintendent of Bankruptcy on such grounds as an ongoing criminal investigation or a breach of your duties as specified in the *Bankruptcy and Insolvency Act*.

What is the effect of a bankruptcy discharge?

The bankrupt is released of most debts. However, some debts are not released, such as an award for damages in respect of an assault, a claim for alimony, spousal or child support, a debt arising out of fraud, any court fine, or debts or obligations for student loans when the bankruptcy occurs while the debtor is still a student or within ten years after the bankrupt has ceased to be a student.

How does bankruptcy affect employment?

For the most part, bankruptcy should not affect your employment. However, there are some special cases. For example, you may have difficulty being bonded. Your trustee will be able to give you more information on other possible restrictions or prohibitions.

Does it cost anything to go bankrupt?

Yes. There is a filing fee to be paid to the Superintendent of Bankruptcy. In addition, the trustee is entitled to be paid. These fees are prescribed by the *Bankruptcy and Insolvency Rules* which may be consulted on the OSB's Web site at: <http://osb-bsf.ic.gc.ca>

Appendix I

Excerpts from the *Bankruptcy and Insolvency Act* concerning bankruptcies.

Duties of bankrupt

Section 158

A bankrupt shall

- (a) make discovery of and deliver all his property that is under his possession or control to the trustee or to any person authorized by the trustee to take possession of it or any part thereof;
- (a.1) in such circumstances as are specified in directives of the Superintendent, deliver to the trustee, for cancellation, all credit cards issued to and in the possession or control of the bankrupt;
- (b) deliver to the trustee all books, records, documents, writings and papers including, without restricting the generality of the foregoing, title papers, insurance policies and tax records and returns and copies thereof in any way relating to his property or affairs;
- (c) at such time and place as may be fixed by the official receiver, attend before the official receiver or before any other official receiver delegated by the official receiver for examination under oath with respect to his conduct, the causes of his bankruptcy and the disposition of his property;

- (d) within five days following the bankruptcy, unless the time is extended by the official receiver, prepare and submit to the trustee in quadruplicate a statement of the bankrupt's affairs in the prescribed form verified by affidavit and showing the particulars of the bankrupt's assets and liabilities, the names and addresses of the bankrupt's creditors, the securities held by them respectively, the dates when the securities were respectively given and such further or other information as may be required, but where the affairs of the bankrupt are so involved or complicated that the bankrupt alone cannot reasonably prepare a proper statement of affairs, the official receiver may, as an expense of the administration of the estate, authorize the employment of a qualified person to assist in the preparation of the statement;
- (e) make or give all the assistance within his power to the trustee in making an inventory of his assets;
- (f) make disclosure to the trustee of all property disposed of within the period beginning on the day that is one year before the date of the initial bankruptcy event or beginning on such other antecedent date as the court may direct, and ending on the date of the bankruptcy, both dates included, and how and to whom and for what consideration any part thereof was disposed of except such part as had been disposed of in the ordinary manner of trade or used for reasonable personal expenses;

- (g) make disclosure to the trustee of all property disposed of by gift or settlement without adequate valuable consideration within the period beginning on the day that is five years before the date of the initial bankruptcy event and ending on the date of bankruptcy, both dates included;
- (h) attend the first meeting of his creditors unless prevented by sickness or other sufficient cause and submit thereat to examination;
- (i) when required, attend other meetings of his creditors or of the inspectors, or attend on the trustee;
- (j) submit to such other examinations under oath with respect to his property or affairs as required;
- (k) aid to the utmost of his power in the realization of his property and the distribution of the proceeds among his creditors;
- (l) execute such powers of attorney, conveyances, deeds and instruments as may be required;
- (m) examine the correctness of all proofs of claims filed, if required by the trustee;
- (n) in case any person has to his knowledge filed a false claim, disclose the fact immediately to the trustee;
- (n.1) inform the trustee of any material change in the bankrupt's financial situation;

- (o) generally do all such acts and things in relation to his property and the distribution of the proceeds among his creditors as may be reasonably required by the trustee, or may be prescribed by the General Rules, or may be directed by the court by any special order made with reference to any particular case or made on the occasion of any special application by the trustee, or any creditor or person interested; and
- (p) until his application for discharge has been disposed of and the administration of the estate completed, keep the trustee advised at all times of his place of residence or address.

Bankruptcy offences

Section 198

- (1) Any bankrupt who
 - (a) makes any fraudulent disposition of the bankrupt's property before or after the date of the initial bankruptcy event,
 - (b) refuses or neglects to answer fully and truthfully all proper questions put to the bankrupt at any examination held pursuant to this Act,
 - (c) makes a false entry or knowingly makes a material omission in a statement or accounting,
 - (d) after or within one year immediately preceding the date of the initial bankruptcy event, conceals, destroys, mutilates, falsifies, makes an omission in or disposes of, or is privy to the concealment, destruction, mutilation, falsification, omission from or disposition of, a book or document affecting or relating to the bankrupt's property or affairs,

unless the bankrupt had no intent to conceal the state of the bankrupt's affairs,

- (e) after or within one year immediately preceding the date of initial bankruptcy event, obtains any credit or any property by false representations made by the bankrupt or made by any other person to the bankrupt's knowledge,
- (f) after or within one year immediately preceding the date of the initial bankruptcy event, fraudulently conceals or removes any property of a value of fifty dollars or more or any debt due to or from the bankrupt, or
- (g) after or within one year immediately preceding the date of the initial bankruptcy event, hypothecates, pawns, pledges or disposes of any property that the bankrupt has obtained on credit and has not paid for, unless in the case of a trader the hypothecation, pawning, pledging or disposing is in the ordinary way of trade and unless the bankrupt had no intent to defraud, is guilty of an offence and is liable, on summary conviction, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year or to both, or on conviction on indictment, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding three years, or to both.

- (2) A bankrupt who, without reasonable cause, fails to comply with an order of the court made under section 68 or to do any of the things required of the bankrupt under section 158 is guilty of an offence and is liable
 - (a) on summary conviction, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year, or to both; or
 - (b) on conviction on indictment, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding three years, or to both.

Failure to disclose fact of being undischarged

Section 199

An undischarged bankrupt who

- (a) engages in any trade or business without disclosing to all persons with whom the undischarged bankrupt enters into any business transaction that the undischarged bankrupt is an undischarged bankrupt, or
- (b) obtains credit to a total of five hundred dollars or more from any person or persons without informing such persons that the undischarged bankrupt is an undischarged bankrupt, is guilty of an offence punishable on summary conviction and is liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year, or to both.

Appendix II

Division Offices of the Superintendent of Bankruptcy:

300 West Georgia Street
Suite 1900
Vancouver, British Columbia
V6B 6E1
Tel.: (604) 666-5007
Fax: (604) 666-4610

Standard Life Tower
639 - 5th Avenue South West
Suite 510
Calgary, Alberta
T2P 0M9
Tel.: (403) 292-5607
Fax: (403) 292-5188

Suite 725, Canada Place
9700 Jasper Avenue
Edmonton, Alberta
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